

administrative provisions

Sec. 1. Sec. 63(1) of No. 143 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

(1) Secs. 1 (petroleum cleanup fee), 2 (petroleum cleanup fund outreach), 8 (extraordinary relief), 14 (reporting requirements), 21 (affordable housing tax credit), 22 (downtown tax credit for disaster expenses), 23 (limitation on downtown tax credits for fiscal year 2013), 24 (low income property transfer tax exemption), ~~and~~ 54 (dental equipment), and 62 (allocation to the emergency medical services special fund) of this act shall take effect on July 1, 2012.

Sec. 2. 14 V.S.A. § 3502(f) is amended to read:

(f) Notwithstanding any other provision of law, a power of attorney appointing a representative to represent a person before the Vermont department of taxes that otherwise conforms to the requirements of the U.S. Internal Revenue Service for a valid power of attorney and declaration of representative pursuant to 25 C.F.R. § 601.503 shall be deemed to be legally executed and shall be of the same force and effect for purposes of representation before the department of taxes as if executed in the manner prescribed in this chapter to the provisions of this section is valid without the signatures of a witness or notary.

Sec. 3. 18 V.S.A. Sec. 908(a) is amended to read:

(a) The emergency medical services special fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 comprising revenues received by the department from the ~~general fund~~ fire safety special fund, pursuant to 32 V.S.A. Sec. 8557(a) that are designated for this special fund and public and private sources as gifts, grants, and donations together with additions and interest accruing to the fund. The commissioner of health shall administer the fund to the extent funds are available to support online and regional training programs, data collection and analysis,

and other activities relating to the training of emergency medical personnel and delivery of emergency medical services and ambulance services in Vermont, as determined by the commissioner, after consulting with the EMS advisory committee established under section 909 of this title. Any balance at the end of the fiscal year shall be carried forward in the fund.

Sec. 4. 32 V.S.A. §3262 is amended to read:

§ 3262. Lien fees; service of process costs; electronic filing of liens

(a) Notwithstanding section 502 of this title, the commissioner may charge against any collection of any liability any related lien fees specified in subdivision 1671(a)(6) or subsection 1671(c) of this title and any related service of process costs awarded to the department and paid by the commissioner. Fees and costs collected under this section shall be credited to a special fund established and managed pursuant to subchapter 5 of chapter 7 of this title, and shall be available as payment for the fees of the clerk of the municipality and the costs of service.

(b) The commissioner may file notice of any lien arising in favor of the state due to nonpayment of taxes with the clerk of a municipality in which the property subject to lien is located in electronic format and such lien shall have the same force and effect as a lien filed in paper form.

Sec. 5. 33 V.S.A. §2506 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of 0.5 percent on the retail sale of the following types of fuel by sellers receiving more than \$10,000.00 annually for the sale of such fuels:

(1) bulk delivery of heating oil, kerosene, and other dyed diesel fuel delivered to a residence or business;

(2) propane;

(3) natural gas;

(4) electricity;

(5) coal.

cigarettes and tobacco products

Sec. 6. 32 V.S.A. §7772(b) is amended to read:

(b) At the purchaser's request, the commissioner may sell stamps to be affixed to packages of cigarettes as evidence of the payment to the tax imposed by this chapter to licensed wholesale dealers and retail dealers for payment within 10 days, at a discount of one and five-tenths percent of their face value if timely paid. In determining whether to sell stamps for payment within 10 days, the commissioner shall consider the credit history of the dealer; and the filing and payment history, with respect to any tax administered by the commissioner, of the dealer or any individual, corporation, partnership or other legal entity with which the dealer is or was associated as principal, partner, officer, director, employee, agent or incorporator. ~~No stamps may be purchased during the period June 15 through June 30 each year under the provisions of this subsection.~~

Sec. 7. 32 V.S.A. § 7817(a) is amended to read:

§ 7817. DETERMINATION OF TAX ON FAILURE TO FILE RETURN

(a) When the commissioner discovers, by examination of the records of the taxpayer as provided in section 7816 of this title, or otherwise, that a person required to file a return under this subchapter, has filed an incorrect or insufficient return, the commissioner may, at any time within three years after the date the return was due, determine the correct amount of tax and shall give notice to the taxpayer of the amount of any deficiency in such tax, together with penalty and interest as hereinafter provided. If no return has been filed as provided by law, the tax may be

assessed at any time. When, before the expiration of the period prescribed herein for assessment of an additional tax, a taxpayer has consented in writing that the period be extended the amount of the additional tax due may be determined at any time within the extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

Sec. 8. 32 V.S.A. § 7783 is amended to read:

§ 7783. Appeals

Any person aggrieved because of any action or decision of the commissioner under the provisions of this chapter may appeal therefrom within 30 days to the superior court of the county in which such person resides. The appellant shall give security, approved by the commissioner, conditioned to pay the tax levied, if it remains unpaid, with interest and costs. ~~Such appeals shall be preferred cases for hearing on the docket of such court. Such court may grant such relief as may be equitable and may order the state treasurer to pay to the aggrieved taxpayer the amount of such relief, with interest at the rate of six percent per annum. If the appeal shall have been taken without probable cause, the court may tax double or triple costs as the case shall demand. Upon all such appeals which may be denied, costs may be taxed against the appellant at the discretion of the court, but no costs shall be taxed against the state.~~

current use

Sec. 9. 32 V.S.A. §3752(10) is amended to read:

For purposes of this subchapter:

(10) “Owner” means the person who is the owner of record of any land or the lessee under a perpetual lease as defined in 32 V.S.A. 3610(a) provided the term of the lease exceeds

nine hundred and ninety-nine years exclusive of renewals. When enrolled land is mortgaged, the mortgagor shall be deemed the owner of the land for the purposes of this subchapter, until the mortgagee takes possession, either by voluntary act of the mortgagor or foreclosure, after which the mortgagee shall be deemed the owner.

Sec. 10. 32 V.S.A. § 3777 is added to read:

The commissioner in his or her discretion and consistent with the resources available for this purpose, may subordinate the lien provided in section 3757(f) of this chapter to a lender's mortgage interest in enrolled land to the extent that the commissioner is satisfied that the landowner will maintain sufficient equity in the enrolled land to satisfy both the lender and any potential land use change tax that would arise upon development of the enrolled land. In order for subordination to be considered, the lender must complete an application form as prescribed by the commissioner and pay a fee of \$179.00 to the commissioner. The application must provide all information deemed necessary by the commissioner to determine the extent if any to which the state's lien can be subordinated to the lender's interest without adversely affecting the interest of the state.

Sec. 11. 32 V.S.A. § 3757(a) is amended to read:

§ 3757. Land use change tax

(a) Land which has been classified as agricultural land or managed forest land pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. Said tax shall be at the rate of 20 percent of the full fair market value of the changed land determined without regard to the use value appraisal; or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a

parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such fair market value shall be determined as of the date the land is no longer eligible for use value appraisal.

This tax shall be in addition to the annual property tax imposed upon such property. If a land use change tax that is due and collectible is unpaid, all land enrolled in the program by the owner of the land on which the tax was assessed shall be discontinued from the program. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

Sec. 12. 32 V.S.A. §3758(d) is amended to read:

§ 3758. Appeals

(a) Whenever the director denies in whole or in part any application for classification as agricultural land or managed forest land or farm buildings, or grants a different classification than that applied for, or the director or assessing officials fix a use value appraisal, or determine that previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision of the director to the ~~director~~ commissioner within 30 days of the decision, and from there ~~in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in subchapter 2 of chapter 131 of this title; and may appeal the decision of the assessing officials in the same manner as an appeal of a grand list valuation~~ to superior court in the county in which the property is located.

(b) Any owner who is aggrieved by the determination of the fair market value of classified land for the purpose of computing the land use change tax may appeal in the same manner as an appeal of a grand list valuation.

(c) Whenever the ~~commissioner~~ director denies a request for an exemption from the terms of the definition of a "farmer" as provided in subsection 3756(j) of this title, the aggrieved person may appeal the decision of the director to the commissioner within 30 days of the decision, and from there to the superior court in ~~the same manner and under the same procedures as an appeal from a decision of the board of civil authority, as set forth in subchapter 2 of chapter 131 of this title~~ the county in which the property is located.

(d) Any owner who is aggrieved by a decision of the department of forests, parks and recreation concerning the filing of an adverse inspection report or denial of approval of a management plan may appeal to the commissioner of the department of forests, parks and recreation within 60 days of the filing of the adverse inspection report or the decision to deny approval. An appeal of this decision of the commissioner may be taken to the superior court in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in subchapter 2 of chapter 131 of this title.

estate tax

Sec. 13. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States, relating to federal estate and gift taxes as in effect on ~~December 31, 2011~~ December 31, 2012, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

(1) the credit for state death taxes shall remain as provided for under Sections 2011 and 2604 of the Internal Revenue Code as in effect on January 1, 2001;

(2) the applicable credit amount shall remain as provided for under Section 2010 of the Internal Revenue Code as in effect on January 1, 2008; and

(3) the deduction for state death taxes under Section 2058 of the Internal Revenue Code shall not apply.

Sec. 14. 32 V.S.A. § 7486 is amended to read:

§ 7486. TIME LIMITATION ON NOTICES OF DEFICIENCY AND ASSESSMENT OF
PENALTY AND INTEREST

(a) The commissioner may notify a taxpayer of a deficiency with respect to the payment of any tax liability, or assess a penalty or interest with respect thereto, in accordance with section ~~7485~~ 3202 of this title, at any time within three years after the date that tax liability was originally required to be paid under this chapter.

Sec. 15. 32 V.S.A. § 7488 is amended to read:

§ 7488. REFUNDS; PETITIONS FOR REFUNDS

(a) At any time within three years after the date a return is required to be filed under this chapter, or six months after a refund was received from the United States with respect to an estate or gift tax liability, or an amount of taxable gifts or of a taxable estate under the laws of the United States, reported in a return filed under the laws of the United States, whichever is later, a taxpayer may petition the commissioner for the refund of all or any part of the amount of tax paid with respect to the return. Unless the period is extended by agreement of the commissioner and the taxpayer, the commissioner shall thereafter, upon notice to the taxpayer, hold a hearing on the claim and shall notify the taxpayer of his determination of the claim within 30 days of the hearing. The failure of the commissioner to refund the amount claimed by a taxpayer within six months of the date of the petition for the refund, under this

subsection, shall be considered to be a notification to the taxpayer of the commissioner's determination concerning the claim. The notification shall be considered to have been given on the date of the expiration of the six months period.

(b) If the commissioner determines, on a petition for refund or otherwise, that a taxpayer has paid an amount of tax under this chapter which, as of the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the state, with respect to the current and all preceding taxable years, under any provision of this title, the commissioner shall forthwith refund the excess amount to the taxpayer together with interest at the rate per annum established pursuant to section 108 of this title. That interest shall be computed from the latest of 45 days after the date the return was filed or was due, including any extensions of time thereto or, if the taxpayer filed an amended return or otherwise requested a refund, 45 days after the date the petition or amended return was filed.

Sec. 16. 32 V.S.A. § 7490 is amended to read:

§ 7490. Payment and collection of deficiencies and assessments; jeopardy notices

(a) Upon notification to a taxpayer of any deficiency, and upon assessment against the taxpayer of any penalty or interest, under section 7485 of this title, the amount of the assessment shall be payable forthwith and the amount of the deficiency and assessment shall be collectible by the commissioner ~~30~~ 60 days after the date of the notification or assessment. The collection by the commissioner of the deficiency, penalty or interest shall be stayed:

(1) If within ~~30~~ 60 days of the notification of deficiency or the assessment under section 7485 of this title the taxpayer files a petition for determination by the commissioner in accordance with section 7487 of this title, collection shall be stayed until 30 days after the notification of the taxpayer of the determination; and

(2) If within 30 days of the notification of determination the taxpayer files a notice of appeal in such manner as the supreme court may by rule provide, collection shall be stayed pending judgment of the court upon the appeal; and

(3) Under such further circumstances and upon such terms as the commissioner prescribes.

games of chance

Sec. 17. REPEAL

32 V.S.A. chapter 239 (game of chance) is hereby repealed.

Sec. 18. 7 V.S.A. chapter 26 is added to read:

CHAPTER 26. BREAK-OPEN TICKETS

§ 901. Definitions

As used in this chapter:

(1) "Break-open ticket" means a lottery utilizing a card or ticket of the so-called pickle card, jar ticket or break-open variety commonly bearing the name "Lucky 7," "Nevada Club," "Victory Bar," "Texas Poker," "Triple Bingo," or any other name.

(2) "Commissioner" means the commissioner of liquor control.

(3) "Distributor" means a person who purchases break-open tickets from a manufacturer and sells or distributes break-open tickets at wholesale in Vermont. "Distributor" shall include any officer, employee or agent of a corporation or dissolved corporation who has a duty to act for the corporation in complying with the requirements of this chapter. "Distributor" shall not include a person who distributes only jar tickets which are used only for merchandise prize

(4) "Manufacturer" means a person who designs, assembles, fabricates, produces, constructs or who otherwise prepares a break-open ticket for sale to a distributor.

(5) "Nonprofit organization" means a nonprofit corporation which is qualified for tax exempt status under the provisions of Section 501(c) of the Internal Revenue Code, as amended and which has engaged, in good faith, in charitable, religious, educational or civic activities in

this state on a regular basis during the preceding year. "Nonprofit organization" also includes churches, schools, fire departments, municipalities, fraternal organizations and organizations that operate agricultural fairs or field days and which has engaged, in good faith, in charitable, religious, educational or civic activities in this state on a regular basis during the preceding year.

§ 902. License required

(a) Manufacture. Break-open tickets sold in Vermont shall be manufactured only by a person licensed by the commissioner. A licensed manufacturer shall sell break-open tickets only to distributors licensed under this chapter, and a distributor licensed under this chapter shall purchase break-open tickets only from a manufacturer licensed under this chapter.

(b) Distribution. A distributor who sells or distributes break-open tickets for resale in Vermont shall be licensed by the commissioner and also shall be a person as defined in section 2(16) of this title.

§ 903. Distribution; retail purchase and sale

(a) Only nonprofit organizations may purchase break-open tickets from distributors licensed under this chapter.

(b) A nonprofit organization may purchase break-open tickets only from a distributor licensed under this chapter.

(c) No person, other than a licensed distributor, shall distribute a box of break-open tickets, and no person shall distribute a box of break-open tickets, unless the box bears indicia as required by the commissioner. No person shall distribute or sell a break-open ticket at retail unless the ticket bears a unique serial number.

(d) A distributor licensed under this chapter may sell break-open tickets only to nonprofit organizations as defined in subdivision 901(5) of this title.

(e) Only nonprofit organizations may sell break-open tickets at retail.

(f) Break-open tickets shall not be sold at premises licensed to sell alcoholic beverages except at clubs as defined in subdivision 2(7) of Title 7. However, a nonprofit organization may sell break-open tickets at premises licensed to sell alcoholic beverages if, notwithstanding 13 V.S.A. § 2143(e), all proceeds from the sale of break-open tickets are used by the nonprofit organization exclusively for charitable, religious, educational and civic undertakings, with only the following costs deducted from the proceeds:

(1) actual cost of the break-open tickets;

(2) the prizes awarded;

(3) reasonable legal fees necessary to organize the nonprofit organization and to assure compliance with all legal requirements; and

(4) reasonable accounting fees necessary to account for the proceeds from the sale of break-open tickets.

§ 904. License requirements; fees

(a) Upon application and payment of the fee, the commissioner may issue the following licenses to qualified applicants:

(1) Manufacturer annual license \$10,000.00

(2) Distributor annual license \$ 5,000.00

(b) A license shall not be granted to an individual who has been convicted of a felony within five years of the license application nor to an entity in which any partner, officer or director has been convicted of a felony within five years of the application.

(c) Licenses issued under this section may be renewed annually from the date of issue or last renewal, upon reapplication and payment of the licensing fee.

(d) All fees collected pursuant to this section shall be deposited into the general fund.

§905.

(e) Upon being notified by the commissioner of taxes that a distributor has failed to pay the tax due under chapter 245 of title 32, the commissioner may revoke the license of that distributor.

§ 905. Records; report

(a) Each distributor and manufacturer licensed under this chapter shall maintain records and books relating to the distribution and sale of break-open tickets and to any other expenditure required by the commissioner. A licensee shall make its records and books available to the commissioner for auditing.

(b) Each licensed distributor shall file with the commissioner on the same schedule as the distributor files sales tax returns the following information for the preceding reporting period:

(1) The names of organizations to which break-open tickets were sold.

(2) The number of break-open tickets sold to each organization.

(3) The ticket denomination and serial numbers of tickets sold.

(c) Each licensed manufacturer shall file with the commissioner quarterly reports on or before April 25, July 25, October 25 and January 25 for the quarter ending prior to the month in which the report is due. The reports shall contain the following information for the reporting period

(1) The names of distributors to which deals of break-open ticket were sold.

(2) The number of deals of break-open tickets sold to each distributor.

(3) The ticket denomination and serial numbers for each deal.

(d) Records and reports filed under this section shall be subject to the provisions of 32 V.S.A. § 3102, except as necessary for administration of this chapter.

(e) The commissioner of liquor control shall provide the records and reports filed under this section to the attorney general and tax commissioner, upon request.

§ 906. Rules

The department of liquor control shall regulate the licensing and reporting requirements of manufacturers and distributors of break-open tickets under this chapter. The commissioner may promulgate regulations for licensure and indicia for boxes of break-open tickets.

§ 907. Enforcement

(a) Any person who intentionally violates section 903 of this title shall be fined not more than \$500.00.

(b) Any person who intentionally violates sections 902, 904 or 905 of this title shall be fined not more than \$10,000.00 for the first offense and fined not more than \$20,000.00 or imprisoned not more than one year, or both, for each subsequent offense.

(c) In addition to the criminal penalties provided under subsections (a) and (b) of this section, any person who violates a provision of this chapter shall be subject to one or more of the following penalties:

(1) Revocation or suspension by the commissioner of a license granted pursuant to this chapter.

(2) Confiscation of break-open tickets or confiscation of the revenues derived from the sale of those tickets, or both.

§ 908. Appeals

Any licensee aggrieved by an action taken under subsection 907(c) or section 904(e) of this chapter and any person aggrieved by the commissioner's refusal to issue or renew a license under this chapter may appeal in writing within 30 days of the commissioner's decision to the liquor control board for review of such action. The board shall thereafter grant a hearing subject to the provisions of chapter 25 of Title 3 upon the matter and notify the aggrieved person in writing of its determination. The board's determination may be appealed within 30 days to the Vermont supreme court. Appeal pursuant to this section shall be the exclusive remedy for contesting the commissioner's action under subsection 908(c) or section 905 of this chapter.

Sec. 19. 13 V.S.A. § 2143 is amended to read:

§ 2143. Nonprofit organizations

(a) Notwithstanding the provisions of this chapter, a nonprofit organization, as defined in subdivision ~~40201(5)~~ 901(6) of Title ~~32~~ 7, may organize and execute, and an individual may participate in lotteries, raffles or other games of chance for the purpose of raising funds to be used in charitable, religious, educational and civic undertakings or used by a fraternal organizations in the day to day operation of the organization and to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated. Except as provided in subsection (d) of this section, gambling machines and other mechanical devices described in section 2135 of this title shall not be utilized under authority of this section.

(b) A nonprofit organization may, notwithstanding the provisions of Title 7, distribute or utilize alcoholic beverages as prizes, rewards, winnings in any lottery, raffle or other game of chance.

(c) A person shall not conduct a bingo game in which the numbers picked are communicated electronically or by satellite to players at another location.

(d) Casino events shall be limited as follows:

(1) A location may be the site of no more than:

(A) one casino event in any calendar quarter; or

(B) three casino events in any calendar year, as long as there are at least 15 days between each event.

(2) A location that is owned by a nonprofit, as defined in ~~32~~ 7 V.S.A. § ~~40201(5)~~ 901(6), may be the site of no more than three casino events in any calendar quarter and no more than 12 casino events in any calendar year as long as there are at least 15 days between each event.

(3) A nonprofit organization, as defined in ~~32~~ 7 V.S.A. § ~~40201(5)~~ 901(6), may organize and execute no more than:

(A) one casino event in any calendar quarter; or

(B) three casino events in any calendar year, as long as there are at least 15 days between each event.

(e) Games of chance shall be limited as follows:

(6) A nonprofit organization shall not organize and execute games of chance on more than two days in any calendar week, nor shall games of chance be organized and executed at any location on more than two days in any calendar week, except that:

(A) Casino events may be conducted only as permitted under subsection (d) of this section.

(B) Break-open tickets may be purchased and distributed only as provided in ~~32~~ 7 V.S.A. chapter ~~239~~ 26.

(C) A nonprofit organization may organize and execute games of chance on three consecutive days not more than twice in any calendar year as long as there are at least 90 days between each event.

(D) Agricultural fairs qualified to receive a state stipend pursuant to 31 V.S.A. § 617 may organize and execute games of chance for not more than 12 consecutive days during the fair once each calendar year.

(E) A nonprofit organization may organize and execute games of chance at a location used by another nonprofit organization which results in the location being used on more than two days a week if all the nonprofit organizations using the location were in existence as of January 1, 1994, and are not affiliated with each other or under common control.

(h) The commissioner of taxes shall provide the financial reports required by subsection (f) of this section to the attorney general and commissioner of liquor control upon request, notwithstanding the provisions of 32 V.S.A. § 3102.

Sec. 20. 32 V.S.A. chapter 245 is added to read:

CHAPTER 245. BREAK-OPEN TICKET TAX

§10501. Definitions

As used in this chapter:

(1) “Break-open ticket” shall have the same meaning as in section 901(1) of chapter 26 of title 7.

(2) “Commissioner” means the commissioner of taxes.

(3) “Distributor” shall have the same meaning as in section 901(3) of chapter 26 of title 7.

§10502. Tax on distributor sales

(a) In addition to the annual licensing fee as provided in section 904 of title 7, there is levied upon each break-open ticket sold in this state a tax to be paid by the distributor in the amount of ten percent of the retail sales value of the ticket. For purposes of this section, “retail sale value” means the retail price stated on the ticket or, if no price is stated on the ticket, the price at which that type of ticket is generally sold.

(b) The tax together with a return in a form prescribed by the commissioner shall be paid to the commissioner of taxes monthly on or before the twenty-fifth day of the month with respect to tickets sold in the month ending prior to the month in which the payment is due and shall be deposited into the general fund.

(c) The administrative provisions of Chapter 103 and 233 of title 32 shall apply to the tax imposed by this section.

Sec. 21. 32 V.S.A. §3102(e) is amended to read:

The commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose return or return information:

(15) to the department of liquor control, provided that the information is limited to information concerning the sales and use tax and meal and rooms tax filing history with respect to the most recent five years of a person seeking a liquor license or a renewal of a liquor license or relates to the break-open ticket tax and qualification of the taxpayer to obtain or retain a license under chapter 26 of title 7;

income tax

Sec. 22. 32 V.S.A. § 5811(18) is amended to read:

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to Section 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for state and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from state and local obligation, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont state or local obligations; and

(III) the amount of any deduction for a net operating loss; and

Sec. 23. 32 V.S.A. §5812 is amended to read:

§ 5812. Income taxation of parties to a civil union

This chapter shall apply to parties to a civil union or civil marriage and surviving parties to a civil union or civil marriage as if federal income tax law recognized a civil union and civil marriage in the same manner as Vermont law.

Sec. 24. 32 V.S.A. §5824 is amended to read:

§5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2011~~ 2012, but without regard to federal income tax rates under Section 1 of the Internal Revenue Code, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 25. 32 V.S.A. §5828b is amended to read:

§ 5828b. Earned income tax credit

(a) A resident individual or part-year resident individual who is entitled to an earned income tax credit granted under the laws of the United States shall be entitled to a credit against the tax imposed for each year by section 5822 of this title. The credit shall be ~~32~~ 11 percent of the earned income tax credit granted to the individual under the laws of the United States, multiplied by the percentage which the individual's earned income that is earned or received during the period of the individual's residency in this state bears to the individual's total earned income.

(b) The tax credit claimed by a taxpayer under this section shall be deductible from the taxpayer's income tax liability, if any, for the year in which the income is earned. In the event the credit exceeds the amount of the income tax payments due from the taxpayer, the excess of credits over payments due shall be paid to the taxpayer. Any payments due to a taxpayer under this subsection shall not bear interest

Sec. 26. 32 V.S.A. § 5841(a) is amended to read:

§ 5841. REQUIREMENT AND RATE OF WITHHOLDING

(a) Every person who is required under the laws of the United States to withhold federal income tax from payments that are also subject to Vermont income tax shall deduct and withhold during the calendar year from the payments made by such person such amount as the commissioner shall prescribe. Every person who makes payments of income with respect to services performed for such person which were previously deferred under a nonqualified deferred compensation plan shall deduct and withhold during the calendar year from the payments made by such person six percent of any payment (including any withheld tax) of such previously deferred income and of income derived from such previously deferred income. The commissioner may authorize any person to deduct and withhold Vermont income tax from any other payments that are subject to the tax imposed by this chapter. Notwithstanding the foregoing, banks (as defined in 8 V.S.A. § 909a(a) 11101(3)) shall not be required to withhold Vermont income tax from payments that are subject to federal back-up withholding.

Sec. 27. 32 V.S.A. § 5852 is amended to read:

(b) In lieu of the estimated payments provided in subsection (a) of this section, a taxpayer who pays federal estimated income tax in annualized income installments may pay for the installment period an amount equal to the ~~applicable percentage~~ twenty-four percent of the taxpayer's required payment for federal income tax purposes, reduced by a percentage equal to the percentage of the taxpayer's adjusted gross income for the taxable year which is not Vermont income, provided, however, that if a taxpayer's Vermont income exceeds the taxpayer's adjusted gross income, no reduction shall be made. ~~For purposes of this section, "applicable percentage" means the percentage of federal income tax liability specified in section 5822 of this title, as amended from time to time.~~

Sec. 28. 32 V.S.A. § 5859(b)(1) is amended to read:

(b) Except as provided in subsection (c) of this section, the taxpayer shall be liable for interest at the rate per annum established from time to time by the commissioner pursuant to section 3108 of this title upon the amount of any underpayment of estimated tax.

(1) For purposes of this subsection, the amount of any underpayment of estimated tax shall be the excess of:

(A) the amount of the installment which would be required to be paid if the estimated tax were equal to ~~80~~ 90 percent of the tax shown on the return for the taxable year, or, if no return were filed ~~80~~ 90 percent of the tax for such year, over

(B) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Sec. 29. 32 V.S.A. § 5883 is amended to read:

§ 5883. DETERMINATION OF DEFICIENCY, REFUND, PENALTY, OR INTEREST

Upon receipt of a notice of deficiency, of denial or reduction of a refund claim, or of assessment of penalty or interest under section 3203 of this title, the taxpayer may, within 60 days after the date of mailing of the notice or assessment, petition the commissioner in writing for a determination of that deficiency, refund, or assessment. The commissioner shall thereafter grant a hearing upon the matter and notify the taxpayer in writing of his or her determination concerning the deficiency, ~~penalty or interest~~ refund or assessment.

Sec. 30. 32 V.S.A. § 5886(a) is amended to read:

§ 5886. PAYMENT AND COLLECTION OF DEFICIENCIES AND ASSESSMENTS; JEOPARDY NOTICES

(a) Upon notification to a taxpayer of any deficiency, and upon assessment against the taxpayer of any penalty or interest, under section ~~5881~~ 3202 of this title, the amount of the assessment shall be payable forthwith and the amount of the deficiency and assessment shall be collectible by the commissioner 60 days after the date of the notification or assessment. The collection by the commissioner of the deficiency, penalty or interest shall be stayed.

Sec. 31. Sec. 2 of No. 2 of the Acts of 2005 (Spec. Sess.), as amended by Sec. 9 of no. 212 of the Acts of the 2005 Adj. Sess. (2006) and Sec. 29 of No. 190 of the Acts of the 2007 Adj. Sess.(2008) and Sec. 17 of the Acts of 2011, is further amended to read:

Sec. 2. EFFECTIVE DATE; SUNSET

Sec. 1 of this act (wood products manufacture tax credit) shall apply to taxable years beginning on or after July 1, 2005. 32 V.S.A. § 5930y is repealed July 1, ~~2013~~ 2015, and no credit under that section shall be available for any taxable year beginning on or after July 1, ~~2013~~ 2015.

property tax and property tax adjustments

Sec. 32. 10 V.S.A. § 6306 is amended to read:

§ 6306. EXEMPTION FROM TAXATION

(a) The rights and interests in real property acquired by a municipality or state agency under the authority of this chapter shall be considered as municipal or state-owned land, as the case may be, with respect to taxation and state reimbursement in lieu of taxes.

(b)(1) The commissioner of the department of taxes may certify that real property acquired by a qualified organization under this chapter is being held and maintained for the purposes expressed in section 6301 of this title. As a condition of that certification, the commissioner may require that the qualified organization provide adequate assurances that the

property is being so held and maintained, including but not limited to written agreements with the department of taxes, deeds, covenants or other conveyances. Property which is so certified:

(A) if in the nature of an interest in fee simple, shall be assessed on the basis of its actual use, or may be enrolled by the qualifying organization in a current use program under chapter 124 of Title 32; or

(B) shall be exempt from assessment and taxation, if in the nature of an interest other than fee simple.

(2) For purposes of this section, where a qualified organization holds a lease in the property for a term greater than ten years, including renewal terms, or holds such other interests as the commissioner shall determine to be substantially equivalent to an interest in fee simple, the organization shall be deemed to hold an interest in fee simple.

(3) A certification granted to a qualified agency shall first affect the April 1 grand list following the date that all information deemed necessary by the commissioner has been provided by the qualified organization.

(c) After acquisition by a municipality, state agency or qualified organization of a right or interest in real property under the authority of this chapter, the owner of any remaining right or interest therein not so acquired shall be taxed, under the applicable provisions of chapter 123 of Title 32, only upon the value of those remaining rights or interests to which he retains title. The state agency or qualified organization, and the department of taxes, shall cooperate with that owner, and with the town assessing such tax, in the determination of the fair market value of any such remaining right or interest.

(d) Property held by a qualified organization and taxed or exempted under subsection (b) of this section shall be subject to a conversion tax if the commissioner determines that it is no

longer being held and maintained for the purposes expressed in section 6301 of this title. The amount of the conversion tax shall be five times the amount of the taxes avoided by reason of the exemption in the most recent year. The conversion tax shall be paid to the municipality in which the property is located.

Sec. 33. 32 V.S.A. § 3802(11) is amended to read:

(11)(A) Real and personal property to the extent of \$10,000.00 of appraisal value, except any part used for business or rental, occupied as the established residence of and owned in fee simple by a veteran of any war or a veteran who has received an American Expeditionary Medal, his or her spouse, widow, widower or child, or jointly by any combination of them, if one or more of them are receiving disability compensation for at least 50 percent disability, death compensation, dependence and indemnity compensation, or pension for disability paid through any military department or the veterans administration if, before May 1 of each year, there is filed with the office of veterans affairs:

(i) a written application therefor; and

(ii) a written statement from the military department or the veterans administration showing that the compensation or pension is being paid. Only one exemption may be allowed on a property. Application for an exemption under this section based upon permanent disability is only required to be filed with the office of veterans affairs before May 1 of the first year for which the exemption is sought, and the exemption shall remain on the grand list until title to the property is transferred.

(B) The terms used in this subdivision shall have the same definitions as in Title 38, U.S.

Code § 101, except that:

(i) the definitions shall apply as if federal law recognized a civil union or a civil marriage in the same manner as Vermont law;

(ii) such definitions shall not be construed to deny eligibility for exemption in the from a federal agency other than the veterans administration; and

(iii) the age and marital status limits in Section 101(4)(A) of Title 38 of the U.S. Code shall not apply.

(C) An unremarried widow or widower of a previously qualified veteran shall be entitled to the exemption provided in this subdivision whether or not he or she is receiving government compensation or pension. By majority vote of those present and voting at an annual or special meeting warned for the purpose, a town may increase the veterans' exemption under this subsection to up to \$40,000.00 of appraisal value. Any increase in exemption shall take effect for the taxable year for which it was voted, and shall remain in effect for future taxable years until amended or repealed by a similar vote.

Sec. 34. 32 V.S.A. §4004 is amended to read:

§ 4004. RETURN OF INVENTORIES BY INDIVIDUALS

On or before April 20, unless otherwise required, every taxable person shall procure such inventory form, make full answers to all interrogatories therein, subscribe the same, make oath thereto, and deliver or forward the same to one of the listers in the town wherein such person owns or possesses property required by law to be set to him or her in the grand list. When notice in writing to file, deliver or forward such inventory on or before a given date is delivered by one of the listers to a person, or mailed postage prepaid to him or her at his or her last known post office address, such person, within the time therein specified, shall properly fill out such inventory and deliver or forward the same to one of the listers, notwithstanding he or she may

not own or possess property subject to taxation. Persons taxable only for real estate ~~and persons taxable only upon their polls~~ shall not be required to file such inventory unless notified so to do as herein provided.

Sec. 35. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF ~~APPRAISER~~ PROPERTY TAX HEARING OFFICER; OATH; PAY

When an appeal to the director is not withdrawn, the director shall refer the appeal in writing to a person not employed by the director, appointed by the director as ~~an appraiser~~ hearing officer. The director shall have the right to remove ~~an appraiser~~ a hearing officer for inefficiency, malfeasance in office, or other cause. In like manner, the director shall appoint ~~an appraiser~~ a hearing officer to fill any vacancy created by resignation, removal or other cause. Before entering into their duties, persons appointed as ~~appraisers~~ hearing officers shall take and subscribe the oath of the office prescribed in the constitution, which oath shall be filed with the director. The director shall pay each ~~appraiser~~ hearing officer a sum not to exceed \$120.00 per diem for each day wherein hearings are held, together with reasonable expenses as the director may determine. ~~An appraiser~~ A hearing officer may subpoena witnesses, records, and documents in the manner provided by law for serving subpoenas in civil actions and may administer oaths to witnesses.

Sec. 36. 32 V.S.A. § 4466 is amended to read:

§ 4466. CONDUCT OF APPEAL BEFORE APPRAISER

Unless expressly waived by all parties to the appeal, the provisions of chapter 25 of Title 3 shall govern all proceedings before ~~an appraiser~~ a hearing officer except where inconsistent with this subchapter. ~~An appraiser~~ A hearing officer shall promptly notify in writing the clerk of the town and all other parties to the appeal of the place within the town wherein the appeal is

taken, of the place within such town and the time at which the parties shall be heard, such notice to be delivered in person or by mail, postage prepaid.

Sec. 37. 32 V.S.A. § 4467 is amended to read:

§ 4467. DETERMINATION OF APPEAL

Upon appeal to the director or the court, the ~~appraiser~~ hearing officer or court shall proceed de novo and determine the correct valuation of the property as promptly as practicable and to determine a homestead and a housesite value if a homestead has been declared with respect to the property for the year in which the appeal is taken. The ~~appraiser~~ hearing officer or court shall take into account the requirements of law as to valuation, and the provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th Amendment to the Constitution of the United States. If the ~~appraiser~~ hearing officer or court finds that the listed value of the property subject to appeal does not correspond to the listed value of comparable properties within the town, the ~~appraiser~~ hearing officer or court shall set said property in the list at a corresponding value. The findings and determinations of the ~~appraiser~~ hearing officer shall be made in writing and shall be available to the appellant. If the appeal is taken to the director, the ~~appraiser~~ hearing officer shall inspect the property prior to making a determination

Sec. 38. REPEAL

32 V.S.A. § 5165 (report of delinquent taxes to director) is repealed.

Sec. 39. REPEAL

32 V.S.A. § 5166 (report of payment to director) is repealed.

Sec. 40. REPEAL

32 V.S.A. § 5167 (reporting method of collection to director) is repealed.

Sec. 41. 32 V.S.A. § 5401 is amended to read:

(10) "Nonresidential property" means all property except:

(B) Property which is subject to the tax on railroads imposed by subchapter 2 of chapter 211 of this title, ~~the tax on steamboat, car and transportation companies imposed by subchapter 3 of chapter 211 of this title,~~ the tax on telephone companies imposed by subchapter 6 of chapter 211 of this title, or the tax on electric generating plants imposed by chapter 213 of this title.

Sec. 42. 32 V.S.A. §5405(a) shall be amended to read:

(a) Annually, on or before April 1, the commissioner shall determine the equalized education property tax grand list and coefficient of dispersion for each municipality in the state; provided, however, that for purposes of equalizing grand lists pursuant to this section, the equalized education property tax grand list of a municipality that establishes a tax increment financing district shall include the fair market value of the property in the district and not the original taxable value of the property and further provided that the unified towns and gores of Essex county may be treated as one municipality for the purpose of determining an equalized education property grand list and a coefficient of dispersion if the director determines that all such entities have a uniform appraisal schedule and uniform appraisal practices .

Sec. 43. 32 V.S.A. § 6066(b) and (c) are amended to read:

(b) An eligible claimant who rented the homestead ~~on the last day of the taxable year,~~ whose household income does not exceed \$47,000.00, and who submits a certificate of allocable rent shall be entitled to a credit against the claimant's tax liability under chapter 151 of this title

equal to the amount by which the allocable rent upon the claimant's housesite exceeds a percentage of the claimant's household income for the taxable year as follows:

If household income (rounded to to the nearest dollar) is:	then the taxpayer is entitled credit for allocable rent paid in excess of this percent of that income:
\$0 - 9,999.00	2.0
\$10,000.00 - 24,999.00	4.5
\$25,000.00 - 47,000.00	5.0

In no event shall the credit exceed the amount of the allocable rent.

(c) To be eligible for ~~a property tax~~ an adjustment or credit under this chapter the claimant:

(1) must have been domiciled in this state during the entire taxable year; ~~and~~

(2) may not be a person claimed as a dependent by any taxpayer under the federal

Internal Revenue Code during the taxable year; and

(3) in the case of a renter, shall have rented property during the entire taxable year.

property transfer tax

Sec. 44. 32 V.S.A. § 9606 is amended to read:

9606. Property transfer return

(a) A property transfer return complying with this section shall be delivered to a town clerk at the time a deed evidencing a transfer of title to property is delivered to the clerk for recording.

(b) The property transfer return required by this section shall be in such form and with such signatures as the commissioner, ~~by regulation,~~ shall prescribe, ~~and shall be signed, under~~

~~oath or affirmation, by each of the parties or their legal representatives, to the transfer of title to property with respect to which the return is filed. If the return is filed with respect to a transfer which is claimed to be exempt from the tax imposed by this chapter, the return shall set forth the basis for such exemption. If the return is filed with respect to a transfer subject to such tax, the return shall truly disclose the value of the property transferred, together with such other information as the commissioner may reasonably require for the proper administration of this chapter.~~

~~(c) The property transfer return required under this section shall also contain a certificate in such form as the secretary of the agency of natural resources and the commissioner of taxes jointly shall prescribe and shall be signed under oath or affirmation by each of the parties or their legal representatives. The certificate shall indicate:~~

~~(1) whether the transfer is in compliance with or is exempt from regulations governing potable water supplies and wastewater systems under chapter 64 of Title 10; and~~

~~(2) that the seller has advised the purchaser that local and state building regulations, zoning regulations, subdivision regulations, and potable water supply and wastewater system requirements pertaining to the property may significantly limit the use of the property.~~

~~(d) For receiving and acknowledging a property transfer return under this chapter, there shall be paid to the town clerk at the time of filing a fee as provided for in subdivision 1671(a)(6) of this title.~~

~~(e) The property transfer return required under this section shall also contain a certificate in such form as the secretary of the agency of natural resources shall prescribe and shall be~~

~~signed under oath on affirmation by each of the parties or their legal representatives. The certificate shall indicate that each party has investigated and disclosed all of his or her knowledge relating to the flood regulations, if any, affecting the property.~~

~~(f)~~ (d) The property transfer tax return shall not be required of properties qualified for the exemption stated in subdivision 9603(17) of this title. A public utility shall notify the listers of a municipality of the grantors, grantees, consideration, date of execution, and location of the easement when it files for recording a deed transferring a utility line easement that does not require a transfer tax return.

~~(g)~~ (e) The commissioner of taxes is authorized to disclose to any person any information appearing on a property transfer tax return, including statistical information derived therefrom, and such information derived from research into information appearing on property transfer tax returns as is necessary to determine if the property being transferred is subject to 10 V.S.A. chapter 151.

sales and use tax

Sec. 45. 13 V.S.A. § 2032 is added to read:

(a) As used in this Code section, the term:

(1) “Automated sales suppression device” or “zapper” means a software program, carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports.

(2) “Electronic cash register” means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to

record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in whatever manner.

(3) “Phantom-ware” means a hidden, preinstalled, or installed at a later time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.

(4) “Transaction data” includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(5) “Transaction reports” means a report documenting, but not limited to, the sales, taxes collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

(b) It shall be unlawful to willfully and knowingly sell, purchase, install, transfer, or possess in this state any automated sales suppression device or zapper or phantom-ware.

(c) Any person convicted of a violation of subsection (b) of this section shall be guilty of a felony and shall be punished by imprisonment of not less than one nor more than five years, a fine not to exceed \$100,000.00, or both.

(d) Any person violating subsection (b) of this section shall be liable for all taxes, interest

and penalties due the state as the result of the fraudulent use of an automated sales suppression device or phantom-ware and shall disgorge all profits associated with the sale or use of an automated sales suppression device or phantom-ware.

(e) An automated sales suppression device or phantom-ware and any device containing such device or software shall be contraband.

Sec. 46. 32 V.S.A. § 9741(2) is amended to read:

§ 9741. Sales not covered

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

(2) Drugs intended for human use, durable medical equipment, mobility enhancing equipment, and prosthetic devices and supplies, including blood, blood plasma, insulin, and medical oxygen, used in diagnosis or treatment intended to alleviate human suffering or to correct, in whole or in part, human physical disabilities.

Sec. 47. 32 V.S.A. §9741(49) is added to read:

(49) Charges made for the right to remotely access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charges for the service are on a per use, per license, subscription, or some other basis.

Sec. 48. 32 V.S.A. §9744(a)(2) is amended to read:

§ 9744. Property exempt from use tax

(a) The following uses of property are not subject to the compensating use tax imposed under this chapter:

(1) Property used by the purchaser in this state prior to June 1, 1969.

(2) Property purchased and used outside of the state by the user while a nonresident of this state, except in the case of tangible personal property which the user, in the performance of a contract, incorporates into real property located in the state.

Sec. 49. 32 V.S.A. §9781(c) is amended to read:

(c) If the commissioner determines, on a petition for refund or otherwise, that a taxpayer has paid an amount of tax under this chapter which, as of the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the state, with respect to the current and all preceding taxable periods, under any provision of this title, the commissioner shall forthwith refund the excess amount to the taxpayer together with interest at the rate per annum established from time to time by the commissioner pursuant to section 3108 of this title. That interest shall be computed from the latest of 45 days after the date the return was filed or from 45 days after the date the return was due, including any extensions of time thereto, with respect to which the excess payment was made or, whichever is the later date if the taxpayer filed an amended return or otherwise requested a refund, 45 days after the date of such amended return or request was filed.

Sec. 50. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Sec. 5 (fuel gross receipts), sec. 10 (lien subordination fee), sec. 11 (unpaid land use change tax), secs. 17 - 19 (administration of break-open tickets by department of liquor control), sec. 20 (break-open ticket tax), secs. 35 - 37 (state appraiser name change), sec. 45 (criminalizing sale possession and use of zappers), and sec. 47 (remotely accessed software) shall taken effect on July 1, 2013.

(5) Sec. 12 (current use appeals) shall take effect with respect to appeals taken after the passage of this act.

(3) Sec. 13 (estate tax link to Internal Revenue Code) of this act shall apply to decedents dying on or after January 1, 2012.

(4) Sec. 24 (link to Internal Revenue Code) of this act shall apply to taxable years beginning on and after January 1, 2012.

(5) Sec. 42 (unified assessment districts) shall take effect for the study of the 2013 grand list.

(6) Sec. 44 (eliminating signature requirement on property transfer tax returns) shall take effect for returns filed in municipal offices on and after July 1, 2013.

(7) Sec. 49 (interest calculation on sales tax refunds) shall take effect for refund petition filed after date of passage.